

The **Research** *Review*

Published by the Research Division of the Tennessee House of Representatives

104th General Assembly

March 24, 2005



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Commerce

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House Committee Activity

March 21—24, 2005

*(Pictured: Discussion in
Finance, Ways & Means,
Tuesday, March 22nd)*

Agriculture

Matt Barnes

In a move to address the shortage of veterinarians in the state, especially large animal veterinarians, the Agriculture Committee sent **HJR 0115** (Bone) to Finance, Ways and Means. As amended, the resolution creates a special joint committee to study solutions to the shortage. The committee shall consist of three representatives and three senators appointed by their respective speakers, representatives from the UT College of Veterinary Medicine, the Department of Agriculture, the Veterinary Medical Association and the Farm Bureau Federation, and a livestock veterinarian licensed in Tennessee and appointed by the Veterinary Medical Association. The committee shall report to the General Assembly no later than February 1, 2006.

During discussion on the resolution, it was revealed that although there are about eleven or twelve hundred veterinarians in the state, many students are more likely to pursue companion animal medicine, or mixed animal medicine, where traditionally, more money is made. Also, large animal medicine is harder work, and it is at a crisis with fewer adequate services at the community level.

The veterinarian shortage is a looming problem nationwide. In fact, late in 2003, Congress passed legislation

to address the shortage of agricultural students looking at food animal and equine as career options. The “National Veterinary Medical Services Act” (HR 1367, 108th Congress), signed into law by President Bush, authorized the development of a student loan repayment program to provide for “veterinary services in shortage situations.” In exchange for debt repayment, students agree to work in underserved areas.

The remaining two items on the Agriculture calendar were sent to Calendar and Rules. **HJR 0144** (Bone), urges the U.S. Fish and Wildlife Service to implement measures against Black Vultures (buzzards) that harm or harass livestock. **House Bill 2266** (Davidson), an administration bill, authorizes rulemaking authority for the Department of Agriculture in the event of an emergency federal order. It clarifies how the department can respond through its own rules process.

The committee also heard updates on livestock production and market growth from Darrell Ailshie of the Tennessee Livestock Producers and Quenton Smith, president of Tennessee Beef Agribition.

(Summary by Denise Sims)

Children and Family Affairs

Shannon Romain

Full Committee

HB 2128 (Rep. McMillan) was referred to Finance, Ways and Means. The committee’s vote was 15 to 1 in favor of passage. The bill directs the Tennessee Economic Council on Women to conduct a comprehensive statewide study on the impact of domestic violence in Tennessee. The report will include a review of public expenditures

resulting from domestic violence and will include recommendations on reducing domestic violence and creating partnerships between employers and employees to address domestic violence concerns. The Council will also develop educational initiatives to address the root causes of domestic violence.

(continued)

HB 0442 (Rep. Fowlkes) and **HB 0604** (Rep. Curtiss) were referred to Calendar and Rules. HB 0442 increases the fine for pleading guilty to failure to report child abuse, a Class A misdemeanor, from a maximum of \$50 to a maximum of \$2500. HB 0604 permits a juvenile court to order that a juvenile serve community service in the emergency room of a hospital for first-time offenses involving beer or alcohol. Two members voted against referring the bill out of committee.

HB 1433 (Rep. Sherry Jones) was also referred to Calendar and Rules. The bill requires ex parte orders of protection for domestic violence to be personally served upon the respondent unless they are not a Tennessee resident, in which case, the order may be forwarded by registered or certified mail. Furthermore, it clarifies that if the respondent is not a Tennessee resident, or the domestic violence incidence occurred in another state, proper venue for filing a petition shall be the county where victim resides.

On March 3, the Judicial Council reviewed the bill and determined that it was necessary to “correct an inadvertent ambiguity” created by legislation passed by the General Assembly last year.

HB 0780 (Rep. Clem) was deferred until April 13, 2005, to await review by the Judicial Council.

Domestic Relations

HB 2244 (Rep. McMillan) is a housekeeping bill that reorganizes the child support and alimony provisions into separate sections of the code and makes various changes with respect to the centralized collection of Title IV-D child support. The committee recommended an amendment to the bill that corrects a typographical error and will facilitate the reorganization. The sponsor assured the committee that neither the bill nor the amendment makes any substantive changes to current law.

HB 2107 (Rep. McCord) was taken off notice.

Family Justice Subcommittee

The following bills were deferred:

HB 0158 (Rep. Turner) – 2 weeks

HB 0998 (Rep. Bowers) – 1 week

HB 0565 (Rep. Towns) – 1 week



Commerce

Matt Barnes

Full Committee

The **Commerce Committee** had three bills on calendar this Tuesday.

HB 1784 (Curtiss) requires all title pledge lenders to be licensed through the Department of Financial Institutions, as opposed to present law that requires such lenders to petition their county clerks to conduct business. Vice-chair Curtiss said last week that he would hold the bill in full committee to allow the Department to introduce an amendment to address its concerns. A Government Operations amendment traveling with the bill institutes a civil penalty of not less than \$50.00 nor more than \$1,000 for each violation of rules issued pursuant to this legislation. *[rolled for one week]*

HB 0955 (Hargett), as the sponsor stated, is a consumer protection bill requiring Category 7 pest control companies applying for a new charter to maintain a physical address and not just a post office box somewhere. The bill requires pest control companies to have a \$50,000 surety bond for the first three years they are in business; thereafter, the bond shall be \$10,000 per year. The bill further clarifies that the liability insurance presently required shall be *occurrence* liability insurance. *[passed to Calendar and Rules]*

HB 2196 (Briley), with an amendment that re-writes it, requires the TRA to establish by rule the posting of a bond or other security by public utilities providing wastewater service or for particular projects proposed by such utilities. TDEC recently notified wastewater utilities that T.C.A. § 69-3-122 requires them to post a \$75,000 bond. The amendment suspends this requirement until January 1, 2006, or until the TRA rules become effective, whichever occurs first. The amendment also states that those utilities that post a TRA bond will not have to post a TDEC bond. Both entities support the amendment. *[passed to Calendar and Rules as amended]*

Industrial Impact Subcommittee

The **Industrial Impact Subcommittee** met Tuesday to consider 13 bills. **HB 0798** (Dunn) was taken off notice. The following seven were rolled: **HBs 1636** and **2057** (McKee) two weeks; **HBs 0134, 0147** and **0745** (Turner, M.) three weeks; and **HB 2276** (McMillan, Hargrove) and **HB 2100** (Borchert) one week.

HB 0743 (Curtiss), with an amendment that makes the bill, renders void and unenforceable any contract provision executed on or after July 1, 2005, that waives a right of a mechanics' or materialmen's lien. *[passed to full committee as amended]*

HB 1785 (Hargrove), for credit life insurance issued after December 31, 2004, establishes options when calculating premiums for maintaining aggregate reserves required by law. Insurers may use the 2001 Commissioner's Standard Ordinary Male Composite Ultimate Mortality Table in lieu of the 1980 Commissioner's Standard Extended Term Table and other factors. *[passed to full committee]*

HB 2305 (McMillan, Pinion) increases from \$45 to \$75 the maximum fee for each conversion of a vehicle salvage document to a rebuilt title. The sponsor said he and the Department of Safety hope this bill helps in the long wait for getting titles.

HB 1352 (Curtiss) changes the requirements for becoming a director of a dental service plan corporation. Instead of a majority of the directors being licensed Tennessee dentists, the board shall simply include licensed Tennessee dentists.

HB 1639 (DuBois), with an amendment that re-writes it, allows a director, officer or committee member of an insurance company to hold ownership interest in another company and receive dividends if such stock

(continued)

Industrial Impact, continued

or ownership interest is disclosed to the insurance company. The director, officer or committee member may also serve as a director, officer, committee member, employee or agency of another entity. *[passed to full committee as amended]*

Small Business Subcommittee

The **Small Business Subcommittee** had no bills on calendar and did not meet.

Utilities and Banking Subcommittee

The **Utilities and Banking Subcommittee** rolled all three of its bills at its Wednesday meeting. **HB 0681** (Litz) and **HB 1235** (Johnson, R.) were rolled one week, while **HB 1411** (Turner, M.) was rolled for four.



Conservation and Environment

Rachel Thomas

Full Committee

The full **Conservation and Environment Committee** convened March 23, 2005, to discuss three bills on the regular calendar. Action on Representative Winningham's **HB 539** was deferred for two weeks. Representative Shepard's **HB 1705** names the conference facility at the Paris Landing State Resort Park in honor of former

Representative L. Don Ridgeway. This bill was referred to the Finance, Ways, and Means Committee. **HB 2063** (Kernell) was passed to the Committee on Calendar and Rules. As amended, this bill expands the membership of county conservation boards from a minimum of five up to a maximum of nine members. *(continued)*

Conservation, continued

The committee then heard a presentation on the TWRA's budget and fee bill. Mr. Allen Gephardt spoke at length with members about various fee increases that will take place April 26, 2005. This will be the first time that the TWRA has increased fees in fifteen years. The committee members primarily had concerns regarding the fee increases for commercial fishing and musseling permits. The commission is considering lowering these fees.

Environment Subcommittee

The **Environment Subcommittee** did not meet.

Parks and Tourism Subcommittee

The **Parks and Tourism Subcommittee** assembled on March 22, 2005, to discuss one joint resolution, **HJR 174** (Newton), which was passed to the full Conservation and Environment Committee. This bill urges

Tennessee's Congressional delegation to take necessary action to obtain National Heritage Area designation for the Cherokee Overhill Territory.

Wildlife Subcommittee

The **Wildlife Subcommittee** convened on March 22, 2005, to consider four bills. Action was deferred for one week on **HB 1267** (Tidwell) and **HB 796** (Matheny). Representative Borchert's **HB 409** was deferred for three weeks. **HB 1268**, by Representative Tidwell, was passed to full committee. This bill prohibits computer-assisted remote hunting in the state.

Consumer and Employee Affairs

Shannon Romain

Full Committee

The committee had five bills on the calendar this week. Two bills were referred to Finance, Ways and Means. **HJR 0093** (Rep. Cooper) encourages state and local governments to pay living wages to workers paid through government contracts or grants. State expenditures to cover the cost of the legislation are projected to exceed \$900,000.00.

HB 1257 (Rep. M. Turner), also referred to Finance, Ways and Means, establishes a conclusive presumption that workers affected by diseases covered under the federal Energy Employee Occupational Injury Compensation Program Act have the disease for the

purposes of the employee or their families filing a claim for state workers compensation benefits.

The committee adopted two amendments to the bill. The first corrects a typographical error and prohibits an employee, their dependents or beneficiaries, or the employer from making a claim against the Second Injury Fund, thereby removing the fiscal note that is projected to cost state and local governments in excess of \$100,000. The amendment specifies that the provisions of the bill do not apply to workers' compensations claims filed by state employees and prohibits any award or entitlement to medical benefits for →

past, present or future medical diagnosis under state workers compensation laws. Such benefits are provided for by the Energy Employee Occupational Injury Compensation Program Act. The amendment clarifies that a state prohibition on benefits is not intended to affect entitlement to federal benefits. It also specifies that any claims made payable under this law shall not be included in the experience modifications factors, or anywhere else, for changes in the loss history of employers that are attributable to awards paid out to an employee, or their dependents, for benefits under this law, to the extent that an affected employer is reimbursed or indemnified for such benefits by the federal government. The second amendment adopted by the committee changes the effective date of the bill from July 01, 2005 to July 1, 2004.

HB 1323 (Rep. Stanley) was referred to Calendar and Rules. The bill permits parents that have been employed full-time by the same employer for 12 consecutive months to take up to four months of leave for pregnancy or the birth, adoption or nursing of an infant. The committee adopted an amendment which makes the bill



that, among other things, makes it gender neutral and guarantees that an employee may return to their previous, or a similar, position and status if they give an employer at least 3 months advance notice that they are taking leave. An employee who is unable to give the 3 months notice because of a medical emergency will not forfeit their rights or benefits solely because they failed to give notice.

Under the amended bill, the employer has the discretion to decide whether or not the leave will be with or without pay. The employer is also relieved of any liability for failing to reinstate the employee

in circumstances where the job is so unique the employer cannot, after reasonable efforts, fill the position, so long as the employer notifies the employee that he or she will not be reinstated.

Finally, the amendment specifies that the provisions of the bill apply only to employers having at least 100 employees.

The following bills were deferred:

HB 0039 (Rep. Bowers) – 1 week

HB 0555 (Rep. Bunch) – 1 week

Consumer Affairs Subcommittee

HB 1782 (Rep. Curtis) revises the law with respect to elevator inspections and requires elevators to have the means for a two-way conversation. The sponsor of the bill introduced an amendment to the bill that, upon adoption, will remove all sections pertaining to inspections. The amendment will maintain current law requiring a dedicated telephone line for two-way conversations, but it will permit elevator owners and operators to upgrade from the hardwired phone lines and take advantage of new advances in communications technology.

The following bills were deferred:

HB 0008 (Rep. Newton) – 3 weeks

HB 0132 (Rep. M. Turner) – 02/06

HB 0155 (Rep. Turner) was taken off notice.

Employee Affairs Subcommittee

HB 1527 (Rep. Montgomery) – Off notice

HB 0756 (Rep. Clem) – Deferred one week

Education

Pam Mason

The Full Committee

The Education Committee met on Wednesday to consider 4 items on its calendar.

Referred to Calendar & Rules:

HB 281 – (McDaniel) allows a school bus that has passed safety inspections, received a waiver for its fifteenth year of service, and is within 180 days of the end of the school year to continue to operate till the end of that year.

HB 990 – (Vaughn) prevents an LEA from requiring that a veteran, who withdrew from school due to military action, be a current resident of Tennessee to issue that veteran a high school diploma. Request may also be made by a veteran's spouse or immediate family.

Taken Off Notice:

HB 250 – (Stanley)

HB 1534 – (Winningham)

Higher Ed Subcommittee

The Higher Ed Subcommittee met at its regularly scheduled time on Wednesday. Action on its calendar follows.

Referred to Full Committee:

HB 748 – (Winningham) allows children, up to 24 years of age, of retired teachers to receive 25 percent higher education tuition discount.

HB 1295 - (Newton) creates a new nursing scholarship program for nursing teachers.

Referred to Full Committee if amended:

HB 1535 – (Winningham) subject to space availability waives tuition for one course per term for full-time, licensed teachers required to complete a course as part of license renewal. As amended, includes support person-

nel who work 25 hours or more per week as eligible for tuition discount.

K-12 Subcommittee

The K-12 Subcommittee met on Tuesday to consider its calendar. The following actions were taken.

Referred to Full Committee:

HB 212 – (Briley) permits LEAs to hire non-teacher employees for periods longer than one year at a time.

HB 2114 – (Jones, S.) requires each public school to adopt a policy addressing bullying.

Referred to Full Committee, if amended:

HB 2333 – (McMillan - Winningham) Enacts the "Voluntary Pre-K for Tennessee Act of 2005."

Deferred for 1 week:

HB 550 – (Bunch)

HB 900 – (Cooper)

HB 901 – (Cooper)

HB 1719 (Turner, L.)

HB 1645 – (McKee)

HB 675 – (Maddox)

HB 2113 – (Winningham)

HJR 182 – (Winningham)

Deferred for 3 weeks:

HB 520 – (Sharp)

Taken off Notice:

HB 193 – (Hackworth)



Finance, Ways & Means

Julie Travis

The Full Committee

The House Finance, Ways, and Means Committee met on Tuesday, March 22, 2005 to discuss and take action on the 14 bills placed before the committee. All but one bill was referred to Calendar and Rules. The one bill that did not pass out of full committee was **HB 719** (West), which was deferred one week, per request of the sponsor.

The bills that passed out of Finance are as follows:

HB 398 (Shepard) – As amended in Finance, this bill increases the per diem rate from \$50 to \$100 for the members of the Board of Nursing when attending board meetings. The Board of Nursing, by statute, is self-supporting such that revenues equal expenditures.

HB 1091 (McMillan) – This bill revises and makes technical changes to various election laws. The House State & Local Govt. Committee amended the bill previously to require that a photo ID be submitted when a full-time student submits an application by mail to become an absentee voter when voting for the first time. The Finance Committee amended the bill to keep the minimum payment at \$10 for every election official attending the mandatory day of election training. The original bill increased the mandatory compensation from \$10 to \$20, but in order to make the fiscal note “not significant,” that particular provision had to be deleted from the bill.

HB 275 (McDaniel) – This bill designates a certain bridge on State Route 128 in Wayne County as the Edgar ‘Eck’ Jobe Memorial Bridge. Designating signs shall be erected only if non-state funds are paid to TDOT to manufacture and erect such signs.

HB 276 (McDaniel) – This bill designates a certain section of State Route 104 in Henderson County as the Robert McKee Memorial Highway. Designating signs shall be erected only if non-state funds are used to manufacture and erect such signs.

HB 278 (McDaniel) – This bill designates a certain bridge on U.S. 64 in Wayne County as the B.E. Edwards Memorial Bridge. Designating signs shall be erected only if the City of Waynesboro manufactures and erects such signs or remits the estimated cost to TDOT.



HB 482 (Overbey) – This bill authorizes county legislative bodies to provide a 10% pay increase for any clerk of court who serves more than one court. The bill is permissive for local governments.

HB 1316 (Fowlkes) – This bill designates a certain segment of State Route 373 in Marshall County as the Marshall County Veterans Parkway. Designating signs shall be erected only if non-state funds are paid to TDOT to manufacture and erect such signs.

HB 1006 (Fowlkes) – This bill creates the offense of “careless driving” and makes it a Class C Misdemeanor. With the passage of this bill, “Careless driving” would be defined as failure to operate a vehicle in “a careful and prudent manner, having regard for the width, grade-curves, corners, traffic and all other attendant circumstances, so as not to endanger the life, limb, or property of any person.”

HB 6 (Ferguson) – This bill is the Tennessee Home Inspector Licensing Act of 2005. As amended in House Commerce, this bill establishes a program for the licensure and regulation of home inspectors. With this bill, applicants will be required to complete 90 hours of commissioner-approved training and a commissioner-approved competency examination. *(continued)*

Finance, continued

Further, applicants must obtain insurance for general liability and for errors and omissions. Applicants principally-engaged in home inspections for at least 2 years that have completed at least 150 home inspections will not have to complete the 90 hours of training. The amendment placed on the bill in House Finance adds language stating that the home inspection does not include inspection or assessment of a lender for the determination of value or the extension of credit. It further stipulates that the home inspection shall not be represented as a home inspection report.

HB 383 (Bone) – This bill designates State Route 840 in its entirety as the Tennessee National Guard Parkway. The bill is subject to appropriation out of the State’s Highway Fund.

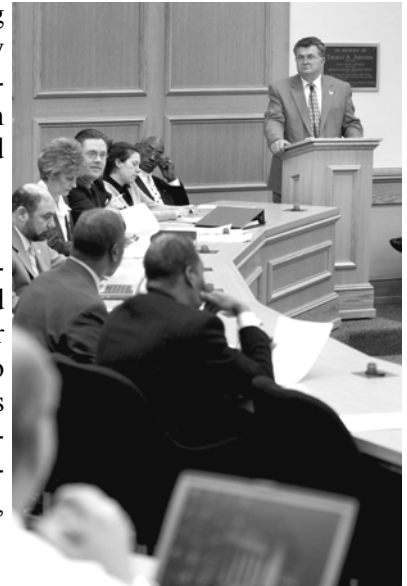
HB 1212 (Borchert) – This bill amends the retirement law by authorizing an appointed administrator of elections in Stewart County to participate in TCRS without requiring an actuarial study to determine how much it would cost the county to allow the administrator to participate. As amended by the Council on Pensions and Insurance, the bill permits the administrator of elections and purchasing agent to participate in the same manner as the county officials whose participation is authorized in TCA § 8-35-116, subject to the approval of the county’s chief governing body.

HB 1612 (Borchert) – This bill provides for TDOT to erect and maintain signs for Tennessee’s Kentucky Lake Recreational Area and for the Scenic Tennessee River to be erected on Interstate 40 in Benton and Humphreys counties. It further provides for directional and trailblazing signs to be erected and maintained on State Route 191 and U.S. Highway 641. Non-state sources are required to pay for the cost and installation of the signs.

HB 2334 (McMillan / Curtiss) – This bill is the Governor’s “Meth-Free Tennessee Act of 2005”. There are many components to this bill. The House Judiciary Committee amended the bill twice changing the entity involved in determining and broadening the

category of exempt products, addition register requirements and product handling, replacing the policing entity and putting in a detailed timeframe in which the law would become effective.

The Finance Committee did not amend the bill any further and referred it on to Calendar and Rules following the explanation of, and committee discussion on, the bill.



Rep. Curtiss presented the “Meth-Free Tennessee Act of 2005” to the Budget Sub and the full Finance Committee on Tuesday.

The Budget Subcommittee

The Budget Subcommittee of the House Finance, Ways, and Means Committee met in a special meeting on Tuesday, March 22, 2005 just prior to the full committee meeting at 1:30 to take up the Governor’s Meth Bill (HB 2334 by McMillan / Curtiss) as per the suspension of the rules on the House Floor on Thursday, March 17th. HB 2334 was discussed and was sent to the full committee. The Full Committee then immediately took the bill up as an addendum to the full Finance Calendar on Tuesday.

The Budget Subcommittee also met at its normally allotted place and time on Wednesday, March 23, 2005.

(continued)

Actions of the Budget Subcommittee are as follows:

HB 363 (Newton), **HB 207 (Briley)**, and **HB 449 (Briley)** were all deferred for one week. **HB 382 (Bone)** was deferred for two weeks, **HB 448 (Todd)** was deferred for three weeks, and **HB 1830 (Rinks)** was deferred for four weeks.

Two bills (**HB 1624** by **Casada** and **HB 201** by **El-dridge**) were both referred to the Special License Plate Calendar.

Bills placed Behind the Budget include **HB 256 (Stanley)**; **HB 14**, **HB 15**, and **HB 364** (all three by **Newton**); **HB 2173 (Bone)**; and **HB 36 (Harwell)**.

Bills referred to the Full Finance Committee are summarized below:

HB 800 (Baird), was amended in Budget Sub. by BSA#2 to rewrite the bill making it a rural development pilot project. The amendment keeps the language of prior amendments relating to Campbell County and the proposed development at Norris Dam State Park, and gives Hardin County or the City of Savannah the option to participate in a similar type of development. The portion of the sales tax attributable to the sales tax increases of 1992 and 2002 would not be considered when making the special allocation to the developments. The bill, as amended, carves out and retains for the State, the State's portion of sales tax revenues currently collected from businesses in Campbell County. This bill, as amended, also states that prior to the issuance of bonds, the county (or city, if applicable) legislative body must submit its plans to the State Building Commission for review and recommendation.

HB 78 (Hargrove) exempts certain employees of vehicle rental companies from having to obtain a limited lines producer license for the purpose of selling insurance in connection with motor vehicle rentals. The state currently does not collect these revenues or issue these types of licenses thus resulting in forgone state

revenues of less than \$10,000.

HB 1575 (West) stipulates that all judgments obtained in Davidson County are liens upon the debtor's land as soon as a certified copy of the judgment is registered in the register's office where the land is located. As amended in House Judiciary, the bill only applies to liens obtained by a governmental entity. The bill with the amendment allows these liens to be created on a property regardless of the lien amount if obtained in any Davidson County Court and registered.

HB 1735 (Brooks (Knox)) authorizes utility district commissioners in Union and Grainger counties to receive per diem payments of up to \$250 per meeting for a maximum of twelve meetings per year.

HB 1938 (Brooks (Knox)) authorizes local school boards to set up evening alternative schools for students in Grades 6-12. The bill further reduces from 16 y.o. to 11 y.o. the minimum age of students for which boards of education are authorized to establish night schools.

HB 1930 (Hackworth) designates the Solway Bridge spanning the Clinch River between Anderson and Knox Counties on State Route 62 as the Dr. Herman Postma Memorial Solway Bridge. Designating signs shall be erected only if Knox County, Tennessee manufactures and erect such signs or remits the estimated cost to the Department of Transportation.

HB 505 (McKee) designates State Route 305 in its entirety as the Clyde Webb Highway. (Clyde Webb was a former member of the TN House of Representatives.) As amended in House Transportation, the signs will be paid by the state Highway Fund.

HB 30 (McDonald) designates a certain bridge on State Highway 25 in Sumner County as the Leon Shoulders Memorial Bridge. Designating signs shall be erected only if non-state funds are used to manufacture and erect such signs.

(continued)

Finance, continued

HB 104 (McDonald) provides for a segment of US Highway 31E in Sumner County to be designated as the David Mandrell Memorial Highway and directs the Department of Transportation to manufacture and

erect suitable signs. Mr. David Mandrell was a law enforcement officer killed in the line of duty and thus this signage will be paid out of the highway fund, as provided in TCA §54-1-133.



Government Operations

Kristina Ryan

The Government Operations Committee convened on Wednesday, March 23rd to consider eight pieces of legislation. Five bills were up for review for other committees and the remaining three bills were sunset bills. **HB 1281** by Representative Miller was deferred for one week, **HB 758** by Representative Bunch was rolled for two weeks and **HB 2184** by Representative Newton was rolled for four weeks.

HB 1255 by Representative McDonald was reviewed and referred to the Transportation Committee. This legislation establishes the “Don’t Trash Tennessee” anti-litter program. The Commissioner of the Department of Transportation would be empowered with the rulemaking authority.

The committee reviewed and referred **HB 318** by Representative McDonald to the Conservation and Environment Committee. Under this legislation, the Department of Environment and Conservation would establish a regulatory program for chip mills and manufacturing facilities that use wood chips or pulpwood. In addition, the bill specifies that the Water Quality Control Board would hear appeals for permits as well as establishing

permit fees. The Commissioner of Environment and Conservation would be authorized to promulgate rules in order to implement this legislation.

Sunset Bills

HB 1449 by Kernell – **Health Services and Development Agency** –re-authorized until June 30, 2007.

- An amendment was placed on the bill that extends this agency for four years to June 30, 2009.

HB 1504 by Kernell – **Commission on Children and Youth** – re-authorized until June 30, 2009.

- An amendment was placed on this bill that reflected the recommendation of the joint subcommittee, which would extend this entity for one year so that the Comptroller’s Office could prepare a performance audit. The review of this entity was previously done as a Question/Answer submission instead of a performance audit.

HB 1459 by Kernell – **State Soil Conservation Committee** – re-authorized until June 30, 2011.

Health & Human Resources

Judy Narramore

Full Committee

The **Health & Human Resources Committee** met on Tuesday, March 22, 2005, to consider six bills and one resolution. Rep. Bowers requested that **HB 0038** (employers report on TennCare enrollees) be rolled one week. **HJR 0091** by Rep. Cooper as amended was referred to C&R. As amended by Amendment 1, HJR 0091 urges the Department of Health and Bureau of TennCare to conduct a joint study identifying any disparities in health care that exist in Tennessee based on data that is currently available to such agencies. Amendment 2 to HJR 0091 that would have added "gender identity" to the health disparities study failed 8-12-1 on a roll call vote. Rep. Maddox requested that **HB 0665** (DMRS pay providers equally) be rolled two weeks. **HB 2008** by Rep. Overbey that establishes there would be no bed tax due on nursing home beds licensed after July 1 of each year if the beds were transfers from one facility to another where the transferring facility had already paid the tax was referred to C&R. **HB 0003** by Rep. Shepard as amended that provides that price gouging of vaccines and inoculations during a medical emergency proclaimed by the Commissioner of the Department of Health is an unfair or deceptive act or practice was referred to C&R. The amendment removes vaccine manufactures from the provisions of this bill. **HB 0478** by Rep. Odom as amended was referred to C&R. The amendment rewrites the bill to change the hours of continuing education for chiropractors from a maximum of 15 to a minimum of 12 in any calendar year. **HB 1265** by Rep. Hensley that authorizes health care providers to use the recognized abbreviation or designation immediately following the person's name indicating the professional license or certification held by such person on any written or printed professional identification (including a sign, pamphlet, stationery, or any type of advertisement) and re-establishes the licensing boards' authority to promulgate rules that regulate advertising was discussed at length, including testimony from the TMA and a family physician. This bill was ultimately rolled two weeks at the request of Rep. S. Jones for purposes of

review and consideration of any documented problems with this particular issue that might have been registered with the respective Boards. Two amendments were adopted prior to deferring the bill. Amendment 1 clarifies that health care providers will use the recognized professional abbreviation or designation with such person's title. Amendment 2 to HB 1265 authorizes persons licensed under Title 63 (health care providers) that have obtained a doctoral degree to use the term "doctor" with such person's title.

After completing the calendar, committee members heard a presentation by Melissa Knight, Executive Director of the Interfaith Health Clinic located in Knoxville. The Interfaith Health Clinic provides primary care and specialty referral for uninsured persons. The Clinic charges for services according to a sliding fee scale, with a minimum charge of \$10.

(subcommittee information on the following page)



Health, continued

Mental Health Subcommittee

The **Mental Health Subcommittee** did not have bills on notice and did not meet this week.

Health Care Facilities Subcommittee

The **Health Care Facilities Subcommittee** met Tuesday afternoon, March 22nd with three bills on calendar. **HB 1401** by Rep. Armstrong as amended that establishes criteria for the creation of branch offices by a facility operated for the provision of alcohol and drug prevention and treatment services was referred to full committee. Offices providing such services will be classified as either a parent office or branch office and only one license will be required for the parent and its related branch offices. The amendment excludes residential treatment facilities and non-residential methadone treatment facilities from the creation of branch offices, sets a 100 mile distance from the parent office to a branch office, establishes supervisory and administrative duties of the parent office, requires quarterly staffing reports from branch offices, and specifies that the aggregate fees collected by the branch office system be equal to the fees currently collected by the Board for Licensing Health Care Facilities. Rep. West requested that **HB 1429** (prohibits LTCF from requiring Medicaid recipients to waive certain rights as a condition of admission) be rolled two weeks. **HB 1945** by Rep. Borchert as amended that authorizes home care organizations to act on signed physician orders that are transmitted by electronic mail was referred to full committee.

Public Health & Family Assistance Subcommittee

The **Public Health & Family Assistance Subcommittee** met Wednesday morning, March 23, 2005, to consider two bills. Rep. M. Turner requested that **HB 0146** (sale of prescription drugs to retail pharmacies) be rolled one week. **HB 0216** by Rep.

Briley as amended that concerns drop-in day care centers was referred to full committee. This bill increases the number of hours per day a child can stay in a drop-in center from six to seven and the hours per week from 10 to 14, allows a drop-in center to operate in the evenings and on weekends, allows a drop-in center to operate on snow days, and removes the existing prohibition on parents using drop-in centers when going to work. The amendment to HB 0216 authorizes the Department of Human Services to determine whether a drop-in center is appropriate for school age children on snow days and prohibits children 13 years or older from being cared for by a drop-in center on a snow day. A verbal amendment that was offered to HB 0216 to remove separate licensure for drop-in centers and to permit day care centers to operate a drop-in program as an endorsement to the center's license failed 3-5 on a roll call vote.

Professional Occupations Subcommittee

The **Professional Occupations Subcommittee** met at noon on March 23rd with eight bills on notice. Rep. Ferguson presented **HB 0850** that allows licensure as a RN for veterans with certain active duty training. Subcommittee members had a number of concerns with this legislation and at the request of Rep. Hargett, Rep. Ferguson rolled the bill two weeks. Likewise, Rep. Ferguson rolled **HB 0851** (licensure as a RN or LPN for veterans with certain active duty training) for two weeks. Rep. Overbey presented **HB 2005** (newborn testing of oxygen saturation level) and then rolled the bill two weeks for further review.

Rep. Shepard presented **HB 1410** that enacts the "Tennessee Affordable Drug Act of 2005." Comptroller Morgan discussed the amendment that



(continued)

Health, continued

rewrites the bill as a way to make some improvement in health care costs in Tennessee. As amended today, HB 1410 authorizes a pharmacist to dispense the generic equivalent of a brand name drug unless the provider determines that a brand name drug is medically necessary and writes

“Dispense as written – brand name medically necessary” on the prescription, and authorizes a pharmacist to dispense a therapeutic alternate covered under the patient’s preferred drug list if the provider has written “Substitution allowed” on the prescription.

HB 2030 by Rep. Odom as amended was referred to

full committee. The amendment rewrites the bill to include certain institutions as acceptable sources of curriculum for massage therapy, deletes provisional licensure for certification exam applicants, authorizes students graduating prior to September 1, 2005, to receive a license without examination, and requires publication of exam passage rates. Rep. Odom rolled **HB 1844** (defines “social worker”) two weeks and **HB 0465** (surgical technologists) one week. Rep. Shepard rolled **HB 2324** (generic drugs) one week.

Judiciary

Jamie Wyatt

The Full Judiciary Committee

On Tuesday, the Full Judiciary Committee met to discuss ten bills. To deal expeditiously with the number of stalking, domestic violence, and meth bills on notice, Rep. Fowlkes established three task forces comprised of three Judiciary Committee members for each task force to review the stalking, domestic violence, and remaining meth bills. These bills will be removed from the subcommittee calendar and placed into the task forces before going to full committee for final review.

Judiciary task forces will review bills on:

- Stalking
- Domestic Violence
- “Meth” (remaining bills)

HJR 89 by Rep. B. Cooper, which establishes a study committee to review and determine the need for changes to TN’s current drug policy, was approved for passage and **referred to the Finance Committee**.

The following bills were approved for passage and **referred to Calendar & Rules**:

- **HB 1432** by Rep. S. Jones changes the language from permissive to mandatory for a records custodian of domestic violence shelters and rape crisis centers to keep records confidential unless person consents or records subpoena.

(continued)

Judiciary, continued

- **HB 1337** by Rep. Stanley, as amended, authorizes magistrates to issue a subpoena for a thumbprint taken and maintained by a pawnbroker. By replacing the word judge with magistrate in the bill, more individuals are given this authority.
- **HB 759** by Rep. Bunch prohibits any individual being housed in a local jail or workhouse from being placed in trusty status if convicted or charged and awaiting trial of a sexual offense that requires person to be registered as a sex offender.
- **HB 40** by Rep. Clem corrects a reference in the code regarding removal of an executor. This bill will substitute a repealed statute with TN's statute on the removal of a trustee so the procedure for the removal of a trustee will be the same for the removal of an executor.
- **HB 1001** by Rep. Fowlkes, as amended, refines the current probate law dealing with removal of executors, creditor claims against an estate, taxes owed by beneficiaries, guardianship and conservatorship, revocable trust, fiduciaries, and powers of custodian and trustees. The amendment to the bill will set out the general assembly's intent regarding post death dispositions of property transferred during testator's life or by will to a trust. It is stating that these types of dispositions, even if testamentary in nature, do not have to comply with the formalities of a will contrary to the court's decision in the Arnold Case.

House Bills rolled 1 week:

HB 16 by Rep. Newton
HB 1701 by Rep. Langster

House Bills rolled 2 weeks:

HB 2060 by Rep. Pleasant
HB 204 by Rep. Briley

Civil Practice & Procedure Subcommittee

On Tuesday, the Civil Practice and Procedure Subcommittee met to consider twelve bills. HB 329 by Rep. Newton was taken off notice.

The following bills were approved for passage and **referred to Full Committee**:

- **HB 471** by Rep. Odom permits licensed physician assistants and physicians except radiologists, pathologists, and anesthesiologists to form and own shares in a professional corporation and limited liability companies.
- **HB 1121** by Rep. McMillan, as amended, revises the TN Limited Liability Company Act by means of creating the TN Revised Limited Liability Company Act. The Act sets out unwaivable provisions, requirements for articles of organization and operating agreements, change in request for records inspection, types of allowable management of LLC, development of a family LLC, dissolution and winding up changes. The amendment serves as a rewrite of the bill.

House Bills rolled 1 week:

HB 252 by Rep. Stanley with amendment 1. Amendment 2 was proposed, but wasn't adopted so language could be reworked.
HB 657 by Rep. Kelsey
HB 1428 by Rep. West

(continued)

Civil Practice Sub, continued

House Bills rolled 2 weeks:

HB 399 by Rep. Shepard
HB 437 by Rep. Cooper
HB 1109 by Rep. McMillan

HB 1347 by Rep. Bowers
HB 1703 by Rep. Shepard
HB 1964 by Rep. Rinks was rolled and its amendment was adopted.



Criminal Practice & Procedure Subcommittee

On Tuesday, the Criminal Practice & Procedure Subcommittee met to consider thirty-one bills. As stated earlier, the bills dealing with stalking and meth will be placed in a task force comprised of three members of the judiciary committee before going on to full committee. HB 161 by Rep. M. Turner was rolled for three weeks. HB 645 by Rep. Cochran was rolled to the last calendar.

The following bills and resolution were approved for passage and **referred to Full Committee:**

- HB 2111 by Rep. Fowlkes includes rape of a child to the definition section under child sexual abuse. Also, the bill adds the offense of rape of a child to other sections of the juvenile code.
- HB 142 by Rep. M. Turner increases the penalty of promoting prostitution from a class E felony to a class D felony.
- HB 57 by Rep. Shaw allows multiple citations to be issued for violations of the seatbelt law for child passengers when multiple children are unrestrained in a vehicle.

Criminal Practice Sub (referred to full committee), continued

- HB 570 by Rep. Towns provides that an owner of a vehicle taken during the commission of a carjacking or vehicle theft will not be required to pay any storage, transportation, or impounding fees incurred. If an individual is arrested and convicted for the conduct, the defendant will be charged costs.
- HB 857 by Rep. Newton increases the scope of sexual battery by an authority figure to include a defendant in a position of trust over the victim.
- HB 1563 by Rep. Buck, as amended, will make knowingly or purposefully giving false information to TWRA officers or designees while engaged in performing official duties a Class B misdemeanor.
- HB 2262 by Rep. McMillan, as amended, revises provisions governing ineligibility for pretrial diversion and judicial diversion for persons convicted of DUI. This bill clarifies that no person convicted of DUI would be eligible for suspension of sentence or probation until time served is day for day of minimum sentence.

House Bills rolled 1 week:

HB 151 by Rep. M. Turner
HB 291 by Rep. Hackworth was rolled 1 week with an amendment. An oral amendment was placed on the bill to set monetary fine limits.
HB 870 by Rep. J. DeBerry to allow sponsor to obtain information regarding incidents of statutory rape and reporting issues.
HB 563 by Rep. Towns

Meth Task Force:

HB 231 by Rep. Campfield
HB 595 by Rep. Curtiss

HB 797 by Rep. Matheny
HB 811 by Rep. Cochran
HB 848 by Rep. R. Johnson
HB 1003 by Rep. Fowlkes
HB 2086 by Rep. Newton

Stalking Task Force:

HB 244 by Rep. DuBois
HB 406 by Rep. Sargent
HB 498 by Rep. DuBois

House Bills taken off notice:

HB 495 by Rep. DuBois
HB 639 by Rep. Cochran
HB 696 by Rep. Roach
HB 782 by Rep. DuBois
HB 787 by Rep. DuBois
HB 790 by Rep. DuBois
HB 793 by Rep. DuBois
HB 932 by Rep. Towns

Constitutional Protections Subcommittee

On Wednesday, the Constitutional Protections Subcommittee met to consider ten bills. HB 724 by Rep. Eldridge, as amended, which requires the state or local government entity to designate an individual as a contact person for each office to facilitate any individual's access to state, county, municipal, and TN Performing Arts Center Management Corporation for personal inspection was moved to the judiciary's summer study committee. HB 887 by Rep. Todd was rolled to the last calendar of this session. HB 1948 by Rep. Todd, which authorizes a person with a firearm permit to carry a firearm in a building where beer or alcoholic beverages are being served if the individual is not consuming alcoholic beverages failed. (continued)

Constitutional Protections, continued

Metro Chief of Police, Chief Serpas, spoke convincingly to the dangers of authorizing patrons to carry firearms in places where alcohol is being served.

The following bills were approved for passage and **referred to Full Committee:**

- HB 2272 by Rep. McMillan, as amended, adds the Department of Agriculture and the Department of Environment and Conversation to the current list of entities that are required to keep and treat criminal investigation files as confidential and not open to inspection by members of the public. Identifying information about a confidential informant will remain confidential even when records cease to be confidential due to an investigation being closed by the department or the court ordering proceedings concluded and appeal exhausted.
- HB 316 by Rep. Lynn, as amended, makes it an offense for any chief medical examiner, county examiner, or pathologist or any agent or employee thereof to contract with or grant an unauthorized person or entity to photograph, videotape, or capture visual images or audio recordings of a deceased human body or autopsy.
- HB 698 by Rep. Pleasant requires an applicant for a handgun carry permit to be a U.S. citizen in addition to current requirements.

House Bills rolled 1 week:

HB 655 by Rep. L. DeBerry
HB 1358 by Rep. Gersham

House Bills rolled 3 weeks:

HB 1308 by Rep. J. DeBerry
HB 1310 by Rep. J. DeBerry

Judicial Administration Subcommittee

On Wednesday, the Judicial Administration Subcommittee met to consider six bills. HB 967 by Rep. Briley was rolled one week. HB 2003 by Rep. Bunch was rolled three weeks. HB 1884 by Rep. Turner was rolled four weeks.

The following bills were approved for passage and **referred to Full Committee:**

- HB 417 by Rep. Matheny allows a judge of general sessions court to appoint a special referee to hear forcible entry and detainer actions between landlords and tenants.
- HB 1010 by Rep. Fowlkes establishes uniform statewide flat fees for court costs in civil and criminal cases, standardizes clerks' commissions, and changes distribution of privilege taxes to the various special funds by converting existing funds distribution into percentages.
- HB 2061 by Rep. Todd, as amended, increases sheriff or constable fees for service of process; money collection; returning, transporting, storing or establishing possession of property; arrest and transportation of prisoners; and bail bonds. The amendment limits the bill to Shelby County and includes a reverse severability clause making all provisions invalid if any provision is considered invalid.



Chairlady Sontany, Judicial Administration

State & Local Government

Lawrence Hall, Jr.

This week in the **State and Local Government full committee:**

To Finance, Ways and Means:

- **HB 2126**, by Rep. McMillan. This bill requires that employee pay ranges be adjusted on July 1st of every year to reflect the change in the consumer price index.
- **HB 2269**, by Rep. Yokley. This bill allows the commissioners of departments to accept gifts on behalf of the department of less than \$5,000. This bill also requires that the gift be reported to the commissioner of finance and administration within 30 days of accepting the gift.
- **HB 37**, by Rep. Newton. This bill broadens the kinds of surplus computer and electronic equipment made available to local education agencies.
- **HB 1415**, by Rep. U. Jones. This bill will allow employees of the legislative branch of government to receive pay either semi-monthly or monthly.

To Calendar and Rules:

- **HB 1871**, by Rep. McMillan. It establishes a state-wide voter registration database in accordance with the federal "Help America Vote Act."
- **HB 970**, by Rep. Briley. This bill will prohibit the alcoholic beverage commission from providing alcohol awareness training for servers. Currently the alcoholic beverage commission provides the license to those private entities that provide alcohol awareness training. This is the reason for prohibiting the commission from providing this training.
- **HB 910**, by Rep. Briley. This bill will require that all extensions of terms for elected officials to be approved by referendum.
- **HB 707**, by Rep. Sherry Jones. This bill provides that procedural due process rights apply to all law enforcement agencies.

(subcommittee summaries are on the following page)



State Government Subcommittee

This week in State Subcommittee HB 2270, by Rep. McMillan, revises the requirements regarding the cost of supervising parolees and probationers. This bill requires that individuals on work release pay an additional \$5.00 per month. The bill passed to full committee. HB 2250, by Rep. McMillan, was also passed to full committee. This bill will make certain changes to the charitable gaming law regarding late filings and registration fees for those events intended to raise less than \$5,000. HJR 98, by Rep. Fowlkes, will extend the terms of office for members of the house of representatives from 2 years to 4 years. This bill passed to full committee. HB 991, by Rep. Vaughn, also passed to full committee. This bill requires all persons who drive emergency vehicles to participate in at least 2 hours of emergency vehicle training per year.

Local Government Subcommittee

This week in Local Government Subcommittee HB 2064, By Rep. Marrero, will allow the county register in Shelby County to assume the duties of the microfilm, public records, and archives departments. This bill passed to full committee. So did HB 664, by Rep. Harwell, which allows a member of a municipal governing body to participate in a meeting by electronic means. HB 1241, by Rep. Godsey, authorizes a county to impose an additional fee on an individual, not to exceed \$15.00, upon the conviction of such person. This bill passed to full committee. HB 1361, by Rep. John DeBerry, also passed to full committee. This bill allows Shelby County to establish a vector control fee to assist the county health department's sanitation programs to reduce the spread of rodent and mosquito borne diseases.



Transportation

Rachel Thomas

Full Committee

The **House Transportation Committee** convened on March 22, 2005, to consider nine bills. Action on **HB 320** and **HB 1846** was deferred for one week. The following bills were passed by the committee and will be considered by the House Finance, Ways, and Means Committee:

HB 560 (Bunch) — “Coach John Peterson Underpass” highway sign in Cleveland.

HB 671 (Maddox)— As amended, this bill allows a person to get a restricted driver’s license whose regular license has been suspended as a result of failing to pay a driver offense fine.

HB 1788 (Hensley)— “Jason Jackson Bridge” sign on US Highway 43 in Lawrence County.

HB 2171 (Winningham)—As amended, this bill creates the North East Tennessee Railroad Authority encompassing Anderson, Campbell and Scott counties.

The following bills were voted to the Calendar and Rules Committee:

HB 419 (Matheny) — Requires that any license plate manufactured or sold in Tennessee other than official license plates issued by the department of safety include the word “REPLICA” on the face of the plate.

HB 747 (Winningham)— Allows for the operation of ATV’s on State Route 116 between Railroad Street and Beech Grove Lane in Lake City.

HB 1977 (McKee) — As amended, this bill urges the Department of Transportation to study the feasibility of developing a standard memorial to be placed on the side of public roads in honor of persons killed.

Public Safety & Rural Roads Subcommittee

The **Public Safety & Rural Roads Subcommittee** met March 22, 2005, to consider ten bills. Action was deferred on **HB 1606** (Borchert), **HB 1576** (West), and **HB 191** (Hackworth) for one week. Representative Maddox’s **HB 670** and Representative Harmon’s **HB 118** were deferred for two weeks. The committee deferred action on **HB 715** (Montgomery) for three weeks. **HB 1695** (Tidwell) was taken off notice.

The following bills were referred to the full Transportation Committee:

HB 821 (Pleasant)—As amended, this bill requires that every driver of a motor vehicle exercise due care to avoid collisions with any object in the road.

HB 699 (Pleasant)—Raises the penalty from a Class A misdemeanor to a Class E felony for knowingly making false certification of identity, date of birth, or driving privileges when applying for a driver’s license.

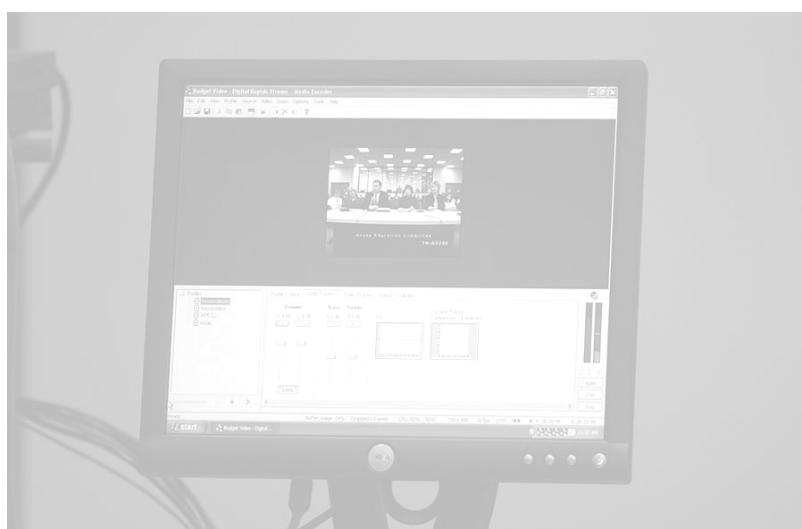
HB 2306 (McMillan/Pinion)—Brings Tennessee into federal compliance with various standards regarding commercial driver’s licenses.

(continued)

Public Transportation Subcommittee

The Public Transportation and Highways Subcommittee did not meet this week. Action on the subcommittee's bills was announced as follows:

Deferred for two weeks: **HB 1965** (Pinion)
HB 2024 (Pinion)
HB 1845 (M. Turner)
Taken off notice: **HB 1978** (Winningham)



Budget Hearings

Department of Commerce and Insurance

Matt Barnes

Commissioner Paula Flowers presented the 2005-2006 budget for the Department of Commerce and Insurance on March 1.

Total Department funding is as follows:

	<u>Base</u>	<u>Improvement</u>	<u>Recommended</u>
State	\$52,087,600	\$300,600	\$52,388,200
Federal	235,000		235,000
Other	32,870,800	1,421,400	34,292,200
Total			\$86,915,400

Commissioner Flowers noted one improvement request not included in the budget, totaling approximately \$500,000. The Insurance Division collects a large amount of information on insurance companies but is currently unable to make very much of it available to the consumer over the Internet. The division plans to expand its computer capabilities by adding computer support staff and administrative positions to enhance consumer education about insurance.

The department has been holding seminars across the state devoted to this issue, seminars Commissioner Flowers noted have been well-received and attended. She said the department needs administrative staff dedicated solely to this activity, as well as additional administrative staff for external communication with the National Association of Insurance Commissioners so as much information as possible can be made available over the Internet.

Also included in this budget request are two additional consumer insurance investigators. The department receives approximately 5,000 complaints annually for an average of 600 per investigator, a number way too high according to Commissioner Flowers.

Other improvement requests, which are included in the budget, are:

- \$530,200 to provide for equipment and three manufactured housing inspectors, two fire safety specialists and two facilities construction specialists. Commissioner Flowers said the department has received some startling complaints over the way some manufactured homes are installed, or rather simply placed on concrete blocks. Funding will come from inspection fees.
- \$891,200 for a 2004 mandated improvement to upgrade electrical inspection costs. Funding will come from the increased permitting fees; and
- \$300,600 to provide for three positions to operate the Regulatory Boards information systems. The computer system needs to be upgraded to handle the complexities of the wide variety of boards. →

Department of Commerce and Insurance, continued

Regarding the improvement for electrical inspection fees, Commissioner Flowers said the department currently treats inspectors as independent contractors. The contractor receives 85% of the fee and the state 15% for administrative costs. However, the IRS recently ruled that, because of the level of control the state exercises over investigators, the state should treat them as employees and withhold the appropriate tax. The department, through consultation with the Department of Financial Institutions and Department of Personnel, has determined an appeal is not a viable option at this time.

A major problem arises if the department is forced to convert these investigators to state employees because the fees they receive now far exceed what they would get as state employees. Further, the statute would have to change to address both the status as employees and the fee schedule.



Commissioner Flowers presents the department's budget to the Finance Committee.

Department of Children's Services

Shannon Romain

Five Year Funding Goals

1. Reduce residential contract care by 5% per year for the next 3 years
2. Stop custody growth in FY05
3. Reduce custody by 2% in FY06, 3% in FY07, and 5% in FY08 and FY09
4. Collapse and enhance foster care rates in FY05
5. Achieve USAD mid-range foster care rates by FY07
6. Align adoptive assistance rates with foster care rates in FY05

FY06 Budget

Children and Family Management	\$185.1 million
Adoption Services	\$43.3 million
Custody Services	\$212.4 million
Juvenile Justice Services and Community Treatment	\$55.2 million
Family Support Services	\$39.2 million
Administration and Maintenance	\$51.2 million

	BASE	IMPROVEMENT	RECOMMENDED
Full-Time	4,236	56	4,292
Part-Time	57	0	57
Seasonal	0	0	0
Total	4,293	56	4,349
Payroll	183,122,600	7,806,900	190,929,500
Operational	382,886,500	12,527,700	395,414,200
Total	\$566,009,100	\$20,334,600	\$586,343,700
State	273,109,000	14,526,900	287,635,900
Federal	97,458,500	2,913,300	100,371,800
Other	195,441,600	2,894,400	198,336,000

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Commission on Aging

Kristina Ryan

The Tennessee Commission on Aging presented its proposed 2005-06 budget to the House Finance, Ways and Means Committee on Tuesday, March 15th. Executive Director Nancy Peace made the presentation on behalf of the commission. The Commission on Aging is responsible for assisting aging Tennesseans and disabled adults with locating in-home services with federal, state and local programs. The main objective of the Commission is to address the needs of the frail and vulnerable and help keep them living at home for as long as possible.

Some of the duties of the Commission include:

- Publish information on aging and adults with disabilities
- Administer the Older Americans Act of Tennessee
- Administer the Long Term Care Services Plan for the elderly and disabled
- Suggest recommendations on improving various programs
- Collect statistical information on the elderly, family caregivers, and disabled adults in need of in-home services.

The Commission oversees nine Area Agencies on Aging throughout the state that coordinate and contract for services such as personal care, homemaker, coordinated care and a strong network of community services for the aging and disabled public. As the aging population increases in this state, so does the need for in-home services. Tennessee has approximately 111,757 Tennesseans that are receiving some form of home-based service and there are roughly 300 service providers providing these services.

The total recommended budget for fiscal year 2005-06 is **\$35,056,800**. Of that figure, **\$8,485,000** comes from state funds, **\$24,466,800** comes from federal funding and **\$2,105,000** comes from other funding sources. The Commission on Aging and Disability has not requested any additional state improvements in this budget.

Legal and Judicial

Jamie Wyatt

Administrative Office of the Courts

Cornelia Clark, the Director of the Administrative Office of the Courts (AOC), presented the AOC's 2005-2006 budget and proposed improvements to the Finance, Ways, and Means Committee. The AOC's total budget request is \$95,124,200 of which \$834,700 is improvement funding. This improvement funding is requested for mandated salary increase for judges under T.C.A. §8-23-103 and funding for building security at both Knoxville and Jackson Supreme Court buildings.

	Base 2005-2006	Improvement 2005-2006	Recommended 2005-2006
State	90,535,800	834,700	91,370,500
Federal	200,000	0	200,000
Other	3,553,700	0	3,553,700
TOTAL	\$94,289,500	\$834,700	\$95,124,200

Post Conviction Defenders

Attorney Don Dawson presented the Office of the Post-Conviction Defender 2005-2006 fiscal year budget to the House Finance, Ways, and Means Committee. Total budget request for the Office of the Post-Conviction Defender is \$1,186,400. The improvement request is to fund step raises for assistant post-conviction defenders pursuant to T.C.A. 40-30-209(b) and 8-14-207.

	Base	Improvement	Recommended
State	\$1,174,800	11,600	1,186,400
Federal	0	0	0
Other	0	0	0
TOTAL	\$1,174,800	\$11,600	\$1,186,400

Mr. Dawson discussed his concern with the current caseloads of attorneys on staff and his department's need to hire on more attorneys. He explained that current court appointed cases are being handled, but that the department's caseload is increasing at such a rate that new staff will need to be hired or clients will need to seek independent counsel. Currently, there are six attorneys with varying caseloads depending on attorney's experience and case size with 17 cases being the highest load. Mr. Dawson went on to say that there has been a steady increase every year with the department carrying an additional 4 to 5 death penalty cases.

District Attorneys General Conference

Executive Director James Kirby presented the District Attorneys General Conference 2005-2006 recommended budget to the Finance, Ways, and Means Committee.

The total budget request for the District Attorneys General Conference is \$70,838,100. Much of the improvement requested is a result of a loss of federal funds. The improvement request is \$2,272,600. \$642,900 of the improvement funds requested provide funding for the assistant district attorneys' and criminal investigators' salary increase required by statute. \$801,800 is the amount of federal funding lost to provide for prosecutors. The improvements will provide funding in the amount of \$204,000 to retain three assistant district attorneys formerly funded by federal grants to prosecute child abuse, juvenile, and drug cases. \$597,800 is to retain ten assistant district attorneys funded by federal grants to prosecute domestic and family violence cases. \$300,000 is funding for operational costs of a case management system that was federally funded. \$277,900 makes up for the federal funding lost that was to continue a training coordinator and existing training programs. \$2,272,600 is recurring funds for replacement of computer equipment on a four year schedule.

	Base 2005-2006	Improvement 2005-2006	Recommended 2005-2006
State	\$51,095,100	2,208,000	53,303,100
Federal	0	0	0
Other	17,470,400	64,600	17,535,000
TOTAL	\$68,565,500	\$2,272,600	\$70,838,100

District Public Defenders Conference

The fiscal 2005-2006 budget for the Public Defenders Conference was presented by Executive Director Andy Hardin.

The total recommended budget for 2005-2006 fiscal year is \$31,877,500. \$379,400 is the improvement request, which is to provide funding for step raises for assistant public defenders and criminal investigators required by statute.

	Base 2005-2006	Improvement 2005-2006	Recommended 2005-2006
State	\$30,001,400	379,400	30,380,800
Federal	0	0	0
Other	1,496,700	0	1,496,700
TOTAL	\$31,498,100	\$379,400	\$31,877,500

(continued)

Attorney General and Reporter

Attorney General Paul Summers presented the Attorney General and Reporter's budget for the 2005-2006 fiscal year to the Finance, Ways, and Means Committee. The total recommended budget for the 2005-2006 fiscal year is \$29,326,400. \$3,900 of this recommended budget is improvement funds. These funds are to provide for the Attorney General's salary increase as required by statute.

	Base 2005-2006	Improvement 2005-2006	Recommended 2005-2006
State	\$18,305,200	3,900	18,309,100
Federal	0	0	0
Other	11,017,300	0	11,017,300
TOTAL	\$29,322,500	\$3,900	\$29,326,400

Department of Mental Health and Developmental Disabilities

Judy Narramore

On March 16, 2005, Virginia Trotter Betts, Commissioner of the Department of Mental Health and Developmental Disabilities, presented the Department's recommended FY 2005-06 budget to the House Finance, Ways and Means Committee. The Department's **proposed budget totals \$226,490,100**, which includes **\$115,064,400 in state appropriations**, \$20,404,900 in federal revenue, and \$91,020,800 in "other" funding. The Department currently has 2,855 positions, with a request for 2,866 in the FY 2005-06 budget proposal.

The Department has **two improvement requests** for FY 2005-06, as follows:

1. Convert existing psychiatrist position to two nurse practitioner positions. This change will increase available psychiatric coverage in a rural western area of the state where psychiatrists are often difficult to hire. The new nurse practitioner position will be funded with equity from the psychiatrist salary.
2. Collection staff for Medicare revenue; 10 positions totaling \$514,400 funded with Medicare revenue. This improvement will provide the staffing resources necessary to strengthen collections operations and increase Medicare funding at the regional mental health institutes (RMHIs). In addition, these resources will be used to meet the new requirements for collection of co-pays under TennCare reform.

(continued)

Mental Health and Developmental Disabilities, continued

Commissioner Betts explained that the Department operates five regional mental health institutes (MHIs): Lakeshore MHI in Knoxville, Moccasin Bend MHI in Chattanooga, Middle Tennessee MHI in Nashville, Western MHI in Bolivar, and Memphis MHI in Memphis; all of which are JCAHO accredited. The RMHIs are at 99 percent bed capacity and have experienced a 28 percent increase in the cost of pharmaceuticals over the past year. In addition, almost 50 percent of admissions to the RMHIs for a mental health diagnosis have a secondary diagnosis of alcohol or substance abuse.

Finance committee members raised several concerns over the almost 30,000 mental health clients that are subject to TennCare disenrollment. Commissioner Betts serves on the TennCare Safety Net Task Force and noted she is acutely aware of the profound impact TennCare changes will have on the Department; however, plans have not yet been formulated to deal with this population.

Other items of interest brought forth at this budget hearing:

- The Department has a need for more community services and less reliance on inpatient services, a long-standing problem.
- Commissioner Betts believes in funding a continuum of services to focus people toward recovery, and to that end, the Department is committed to evidence based practices.
- The institutions for mental disease (IMDs) no longer have an IMD exemption which means 21 – 64 year olds hospitalized in IMDs can not be reimbursed by federal matching funds.

Finance & Administration Division of Mental Retardation Services

Judy Narramore

On March 16, 2005, Stephen Norris, Deputy Commissioner of the Department of Finance and Administration Division of Mental Retardation Services, presented the Division's recommended FY 2005-06 budget to the House Finance, Ways and Means Committee. The Division's **proposed budget for FY 2005-06 totals \$724,833,200**, which includes **\$104,650,100 in state appropriations**, \$2,586,100 in federal funds, and \$617,597,000 in "other" revenue (primarily interdepartmental TennCare funds). The FY 2005-06 budget request includes 4,031 positions for the Division.

Three requested **improvements for FY 2005-06 total \$45,064,100**, which includes **\$4,124,100 in state appropriations** and \$40,940,000 in interdepartmental TennCare revenue. The first, totaling \$39,160,000 in TennCare funds, is to provide funding needed to comply with the *Brown* lawsuit settlement. The settlement requires →

Mental Retardation Services, continued

continued implementation of the new self-determination waiver, which would serve an additional 900 individuals and an increase in the home and community services waiver by 200 people.

The second improvement request is to provide \$4,124,100 non-recurring state funds for development of an integrated information system that will enhance client tracking, data analysis, report production, provider payment, and TennCare reimbursement functions. This system will integrate over 20 functions currently carried out through stand-alone obsolete technology and will satisfy federal compliance directives.

The final improvement request, totaling \$1,780,000 in TennCare funds, is to provide additional funds for services to mentally retarded young adults who have aged out of the Department of Children's Services programs.

The Division oversees three regional offices which coordinate services to individuals in the community, as well as the operation of a developmental center in each grand division of the state (Arlington in the West, Clover Bottom in the Middle, and Greene Valley in the East). There are presently 3,750 individuals on the waiting list, which includes individuals who are not currently receiving any services, as well as those waiting for specifically requested services that are not yet available.

The Centers for Medicare and Medicaid Services (CMS) has the Division under moratorium from enrolling additional individuals into Medicaid waiver services. This moratorium was imposed due to the Division's poor performance and non-compliance with federal mandates. To end the moratorium and thus begin working the waiting list, the Division has submitted three waiver requests to CMS, developed a provider manual for CMS approval, and developed and implemented a new rate structure, effective January 1, 2005.

Other issues of interest noted by Deputy Commissioner Norris:

- The Division operates under three lawsuits: Arlington, Clover Bottom/Greene Valley, and Waiting List. Later this year, the Division plans to ask the federal court to remove Greene Valley from the lawsuit.
- \$5 million may be available in the July 1, 2005, budget to equalize pay for direct care staff working in community centers. The intent is to make such persons salaries comparable to direct care staff working in the developmental centers.



Department of Transportation

Rachel Thomas

Commissioner Gerald Nicely, of the Tennessee Department of Transportation (TDOT) presented the department's proposed budget to the Finance, Ways, and Means Committee on Thursday, March 17, 2005. The commissioner initially explained to the committee that the department is and has been working under temporary funding status with respect to federal funding for the last six years. He said that the department will return to the legislature in the spring with a three year program proposal after Congress has given a more clear indication of its position on the reauthorization of funding.

Commissioner Nicely then outlined a number of improvements upon the estimated FY 2004-05 budget that are included in the base FY 2005-06 figures. The first of these is a \$4,050,000 state expenditure for the mass transit program. Next, an \$800,000 improvement is in the budget for a rural van replacement program. Within the last several years the department has experienced a staff reduction of around 700 persons. Thus, the department is requesting twenty-four additional positions so that the SmartWay program can be maintained internally. Finally, a "511" program will be available in late November. Travelers can call this number in order to receive traffic information along Tennessee highways.

TDOT plans, designs, constructs, and maintains the state's highway network. Furthermore, the department is responsible for aeronautics, public transit, railroads, and waterways. This is accomplished with four major program areas—headquarters, administration, environment and planning, and engineering. Please see the table below for each program's budget. The department's total budget for FY 2005-06 is \$1,858,614,000.

Headquarters

	Base	Improvement (FY 05-06)	Recommended
Headquarters	14,448,000	0	14,448,000
Insurance Premiums	11,000,000	0	11,000,000
Total			25,448,000

Bureau of Administration

	Base	Improvement (FY 05-06)	Recommended
Bureau of Administra-	34,509,000	0	34,509,000
Total			34,509,000

Bureau of Environment and Planning

	Base	Improvement (FY 05-06)	Recommended
Bureau of Environment and Planning	6,621,000	0	6,621,000
Mass Transit	87,976,000	0	87,976,000
Planning and Research	21,100,000	0	21,100,000
Air, Water, and Rail Transportation	47,400,000	0	47,400,000
Total			163,097,000

Dept. of Transportation, continued

Bureau of Engineering

	Base	Improvement (FY 05-06)	Recommended
Bureau of Engineering	18,146,000	0	18,146,000
Field Engineering	37,262,000	0	37,262,000
Field Construction	0	0	0
Field Maintenance Operations	0	0	0
Equipment Purchases and Operations	21,020,000	0	21,020,000
Highway Maintenance	238,528,000	0	238,528,000
Highway Betterments	6,400,000	0	6,400,000
State Aid	37,681,000	0	37,681,000
State Industrial Access	11,615,000	0	11,615,000
Interstate Construction	183,400,000	0	183,400,000
Forest Highways	900,000	0	900,000
Local Interstate Connectors	4,150,000	0	4,150,000
State Highway Construction	944,458,000	0	944,458,000
Capital Improvements	7,100,000	0	7,100,000
Bridge Replacement	124,900,000	0	124,900,000
Total			1,635,560,000

Department Totals

	Base	Improvement (FY 05-06)	Recommended
State	820,900,000	0	820,900,000
Federal	996,332,000	0	996,332,000
Other	41,382,000	0	41,382,000
Total	1,858,614,000	0	1,858,614,000

Department of Revenue

Julie Travis

Commissioner Loren Chumley presented the Department of Revenue's FY05-06 budget on March 17, 2005 to the House Finance, Ways, and Means Committee. Joining the Commissioner to defend the Department's budget and to answer various questions of the Committee was Deputy Commissioner Reagan Farr and Mr. John Lamar, Director of Fiscal Services. Also supporting Commissioner Chumley in the audience, and representing the Department's 929 employees, were Assistant Commissioners Glenn Page and Sam Chessor, departmental communication staff, Emily Richard and Elizabeth Fitzgerald, and Marty Pillar, whose responsibility is performance-based budgeting and strategic plans for the department. **The Department's total budget request for fiscal year 05-06 is \$66,785,200**, of which \$45,984,400 is state appropriation. The remaining is comprised of \$22,000 federal (the same federal appropriation as last year) and \$20,778,800 in other dollars. Actually, the Department has a **\$2.7 million decrease in requested State appropriations this year** as opposed to the estimated State funding for the FY04-05 budget. No improvements were requested for the fiscal year 2005-06 budget.

The Department of Revenue is charged with collecting and administering Tennessee's fees and taxes, ensuring compliance among all taxpayers, and apportioning tax revenues to appropriate state and local funds. The Department has three divisions that accomplish these goals; they are the Administrative Services division, the Support Services division, and Revenue Collections Service.

The Commissioner spoke to the committee on the Department's goals including that of becoming a digital department using electronic tax administration. The new electronic filing system that was put into place a few years ago has increased departmental efficiency allowing them to take an estimated 55,000 fewer telephone calls in their call centers and contributing to fewer erroneous bills being sent to taxpayers. Compliance Initiatives continue to be on the forefront as the department is focusing on increasing outreach to businesses and citizens. The Department also promotes quality control and always strives to keep up employee morale and to attract quality employees as the retirement age continues to creep closer for many departmental staff members.

During the past year, the department met or exceeded twelve of their fourteen performance measures. The Commissioner commented on the new imaging project which is now in place, allowing tax returns and applications move to different divisions electronically thus resulting in more efficient work. In an effort to increase compliance with tax laws, the Dept. is beginning to mail out over 3,000 letters to professional services firms (i.e., doctors and dentists) who primarily do not collect, nor are registered to collect and remit, sales tax due to the professional services in which they engage, and have bought equipment outside of the state, but have not paid Tennessee tax on their equipment purchases. So far, the department has collected \$68,000 from such businesses as a result from having sent letters of notification asking for compliance with the law.

Questions were also asked regarding success of the **Unauthorized Substance Tax Unit**. This tax came on line on January 1, 2005. As of March 15, the dept. has made \$6.3 million in assessments and has collected \$146,000, with \$22,000 of that from seized assets.

Much discussion was had regarding the **Streamlined Sales Tax Agreement (SSTA)** and what effect delaying the project would have on Tennessee's leadership role or "seat at the table" once we have nationwide implementation of the agreement. The Commissioner stressed that **internet sales are taxable today**. There is a common misconception that the opposite is true. However, the Commissioner reemphasized that there is no Congressional prohibition on collecting tax on internet sales. In fact, states can only force collection of sales tax if a merchant has a physical presence in that state. (continued)

Dept. of Revenue, continued

The issues of Vendors Comp and destination sourcing in relation to the SSTA were also broached. Tennessee is actually in the minority in having origin sourcing as currently compared to other states. The Commissioner was also questioned on the department's availability to be ready by the July 1 implementation deadline. The Department is updating its call center so a Tennessee vendor can call the dept. to find out appropriate tax rates for the destination of the product sold. Software packages and databases are also now in the final stages of development in order to be ready for Tennessee's implementation of the SSTA.

The final question of the afternoon involved the sales tax holiday proposed in the Governor's budget. The Commissioner stated that the proposed bill would have a July 1, 2006 implementation date in order for the holiday to occur on the first weekend of August 2006. Cities will be held harmless and the sales tax holiday will consist of tax exemption on clothing less than \$100 per item, school supplies, and on computers up to \$1,500.

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***The Finance Committee has
completed its schedule of budget
hearings. Final summaries will be
included in the next edition of
The Research Review.***